



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

NOVEMBER 6, 2017

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, November 6, 2017 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Chairman Gage Perry presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Michael Boisvert
Cynthia Glenn
Gina Rosati
Tim Tenhave, Alternate Member
Councilor Jackie Flood

Members of the Commission Absent:

Also in Attendance: Sherrie Trefry, Dir. of Energy and Environ. Svcs, VHB
Mark Verostick, Sr. Project Eng., VHB
David Cedarholm, Project Manager, Tighe & Bond
John Boisvert, Chief Engineer, Pennichuck Water
Tom Monahan, The Monahan Companies
Dawn Tuomala, Dep. Dir./Town Eng., Public Works Dept.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

1. **VHB Inc. with the Monahan Companies (applicant) and Merrimack Premium Outlets, LLC. (owner)**

Review the preliminary design of a proposed roundabout on Premium Outlets Boulevard and impact to surrounding wetlands. The parcel is located at 10 Premium Outlets Boulevard in the I-2 (Industrial), Aquifer Conservation Districts and Wellhead Protection Area. Tax map 3C, Lots 191-01 & 191-02.

Mark Verostick, Sr. Project Engineer, VHB, stated the project a wetland application is being submitted for is a roundabout at the entrance to an outparcel, which is slated for development, off Premium Outlets Boulevard. Currently, a left-turn lane comes off Premium Outlets Boulevard into a vacant site. For the proposed mixed-use development, the roundabout/traffic circle is intended to facilitate traffic in and out.

The roundabout construction results in embankment fill and the relocation of a storm drain outlet. The existing wetland system will be impacted (1,600').

Chairman Perry questioned if the original storm drain outlet existed prior to or was part of the mall development. Mr. Verostick stated his belief it was part of the mall project. Alternatives for the location of the roundabout were considered; moving off-center from existing roadway would create further reconstruction of Premium Outlets Boulevard and potentially create additional impacts further upstream.

The project is before the Commission prior to submission of the minimum impact expedited review with The New Hampshire Department of Environmental Services (NHDES).

When asked, Mr. Verostick explained there exists an emergency access that connects at Camp Sargent Road at Continental Boulevard, which is, and will continue to be, a gated access. The area of the proposed roundabout is the primary access for both the outparcel and the existing mall. The roundabout will help facilitate traffic flow in and out onto Industrial Drive.

When asked about the diameter needed for two lanes of traffic, emergency vehicles, etc., Mr. Verostick stated it was looked at for truck traffic as well as emergency vehicles being able to get in and out of the outparcel as well as being able to get up and down to the existing mall. A single lane roundabout would not be able to handle the traffic flow.

When asked about existing embankment material, Mr. Verostick stated there exists concrete curb, guardrail, and then slope down to the toe of the fill. It is vegetated, and the proposed condition would be vegetated except for the outfall (riprap erosion control at outlet to the existing pipe).

Commissioner Tenhave questioned, and was informed, they have not searched for invasives. When asked if, before construction, they planned to look for invasive species, and properly handle any found, Mr. Verostick stated they are doing a stormwater management design for the outparcel. That will go through an Alteration of Terrain (AoT) permit process. Removal of invasive species is a typical condition of the process. Mr. Verostick remarked, within the project limits, they can require the contractor to do an inspection and removal of invasives following best management practices.

Chairman Perry questioned the plan for green space. Mr. Verostick stated the slope would be loamed and seeded. They would utilize a New England Conservation mix for the no mow mix.

Chairman Perry remarked going into a wetland the recommendation would be for no phosphate, slow release nitrogen fertilizer to be used, if fertilizer is necessary.

It was noted a temporary erosion control blanket will protect the slope during construction and until vegetation is established. Silt socks will be at the toe of construction as a temporary measure. Compost filled mulchy tubes is what is proposed for perimeter controls.

Reference to hay bales should be replaced with "straw bales"

MOTION BY COMMISSIONER TENHAVE TO AUTHORIZE CHAIRMAN PERRY TO SIGN, ON BEHALF OF THE COMMISSION, THE EXPEDITED WETLANDS PERMIT

MOTION SECONDED BY VICE CHAIRMAN CARON

MOTION CARRIED

7-0-0

2. Dawn Tuomala, Deputy DPW Director/Town Engineer for the Town of Merrimack - Discussion of Emergency Wetlands Permit for Amherst Road & D.W. Highway Culvert Repairs and

Conservation Deed over the Bedford Road Bridge Project.

Conservation Deed over the Bedford Road Bridge Project

Dawn Tuomala, Deputy Director/Town Engineer, Public Works Division (PWD), spoke of the conservation easement on the piece of land on Bedford Road that the Town is trying to put the new bridge on.

The subdivision plan for Orange Blossom Estates was done in 1980. The plan included a construction easement for a new road. At the time, they were still using Dara Bridge. In 1984, the new road was constructed, and the large metal CMP pipe was installed, which is now failing. Now we need to install a new bridge. The Town is receiving Federal dollars for this project, and, as a result, is required to have clean title.

After the road was constructed, the Town attorney decided nothing more needed to be done. It has remained in a construction easement ever since.

The State Department of Transportation, several months ago, informed the Town it shall quiet this title by petitioning for the layout of the road. Since the Town will be constructing the new road in approximately the same location (flattening curb slightly), the request is for the construction easement to be turned into a permanent easement. The Town would not physically own the land; it won't be taken away from what is now called Bramber Estates. To do the Petition, it must be signed.

The Commission's agenda packet included a copy of the Petition, the 1980s plan with the area that would be used for the new road, and the conservation easement, which was given to the Town in 1983. It covers some part of this construction easement.

Deputy Director Tuomala noted all required notices were sent to the Commission, as it has an interest in the property, all 49 owners in the subdivision as the area in question is green space for that development, and all their lienholders.

Deputy Director Tuomala stated the Town would not file a new plan in the registry, they are just going to file the Petition so that it clearly defines that it has now become a permanent easement. That is what all of this is about; there is no real taking because we already have it, and the public still has the right to use it, and will continue to do so.

Commissioner Tenhave commented the Commission has seen the project recently, and is very familiar with it. Deputy Director Tuomala stated the easement would be put before Town Council on December 7th for a Public Hearing.

Emergency Wetlands Permit for Amherst Road Culvert Repairs

In June, the Town received an emergency permit from NHDES to allow the replacement of the culvert under Amherst Road near Continental Boulevard. A copy of the emergency permit that was acquired to do the work was provided, and noted it did not require a wetlands permit. Deputy Director Tuomala stated after the work was done, she went back to NHDES to show them all the photos, etc. for this project, and was informed there is in fact the need for a permit. An expedited permit cannot be filed. The project results in 710 sq. ft. of impact. The culvert was extended slightly on both sides to be able to lessen the slope from the road. It went from a 36" failing metal culvert to a concrete culvert that is 5' diameter. One thing that is required when doing an emergency permit is that you must be able to pass a 100-year storm through there. The size of the culvert had to be increased to satisfy that.

Deputy Director Tuomala commented she started the permit process a few weeks ago, but was taken off that to work on the Bedford Road mailings as that became more of a timing concern. She has not yet completed the permit. It does not require signature from the Commission; however, she would like to receive that signature.

Deputy Director Tuomala spoke of having provided a copy of the plan that she will be preparing for the registry as there is the need to obtain easements from. The desire is to ensure it is clear and that the Town has the right to be able to gain access to maintain the culverts, etc.

The Commission was provided with copies of photographs depicting the work area before, during, and after project completion as well as a description of the work involved.

Emergency Wetlands Permit for D.W. Highway Culvert Repairs

Deputy Director Tuomala indicated on a map that was displayed, the location of the culvert for which an emergency wetlands permit was obtained. When she and Kyle Fox, Director, PWD, were at the State they provided a video of what was occurring inside the culvert. The response was, there is no question whether you need an emergency permit.

The Commission was provided with copies of photographs depicting the work area before, during, and after project completion as well as a description of the work involved.

The existing culvert was a 4.5' x 4.5' concrete culvert. There was a 4' diameter concrete pipe coming from the direction of the old Shaws. The headwall of that one had completely fallen off and the pipe going back had cracked and severed along the line. The department ended up bringing the whole line back up and replacing the catch basin, which they had been unaware of and found during the project. It was replaced with a good deep sump so that it is taking D.W. Highway's drainage and trying to do some stormwater prevention before it gets out to the brook. The new pipe is a 7' plastic pipe reinforced with steel.

An as-built survey will be conducted, after which the areas of impact will be known. It is likely it will be under 1,000 sq. ft. of impact.

This permit cannot be done as an expedited permit. A new wetlands application will be sent out. Commissioner Tenhave requested a copy be provided the Commission once completed.

3. Adele Fiorillo, Normandeau Associates - Review of amended wetlands permit filed by Pennichuck Water Works Inc., related to installation of Water Main.

David Cedarholm, Project Manager, Tighe & Bond, commented since last before the Commission, things have changed a little; mostly in the methods of construction. The original proposal was to directionally drill the component of the water main crossing, and it was on the Merrimack side of the river. Once they got into the geotechnical engineering side of the project and were working with Brierley Associates of Bedford, analyzing the pathway of the borehole (16" diameter pipe; borehole is 42" in diameter) the need for a change was realized. The hydraulic pressure inside the borehole is significant because the water level is at about 92' and the top of the embankment is about 118'. There is more than a 20' difference in elevation between the water surface and the top of the borehole, which would be the liquid level in the borehole. The hydraulic pressure underneath the river in this directionally drilled portion is quite high.

A quick amendment was done to the permit to allow for a larger area of temporary weight. They had originally permitted a 10' wide area (temporary impact on top of the pipe) for a temporary weight to resist the hydraulic pressure and prevent a breakout of the hydraulic fluid. Once the geotechnical

engineers looked at it closely, it ended up being a 35' wide area with a temporary impact of 3,400 sq. ft. That temporary weight would have needed to be 3 solid feet of concrete. What they were looking at was over 400 3x3x3 concrete blocks that would be temporarily placed at the bottom of the river. They looked at the cost of that, the risk associated with that, the impact; although temporary there could be a significant amount of turbidity involved in placing them and then retrieving them afterwards. They revisited that method, and now have revised it to use a cofferdam on the west side of the river just as they had proposed on the east side. That significantly reduces the temporary impact because now they are looking at a 10' wide excavation. The excavation and pipe installation would happen in the wet, so the cofferdam is there to keep the excavation open and contain the turbidity inside the excavation. The way they would do that is install the cofferdam with a crane from the shore. There is additional temporary impact on the shoreland permit for a place to position the crane to do that work.

What is new is the impact on the embankment. There is now 561' of wetland impact to construct a riprap slope. There currently is riprap in the area. There are three trees that are impacted. A photo taken from the river showed a cluster of Silver Maples, a 16" Sycamore and a 7" Elm. The riprap is right on the edge of the Elm. They propose to cut that and leave the stump, but the other two stumps will need to be removed.

Mr. Cedarholm stated it to be a simpler project. The biggest change is it has now gone from a 16" diameter HDPE to a ductile iron ball and socket pipe. It will be installed in sections. The real advantage to that is they will be able to do the cofferdam on one side, install the pipe and backfill it, pull the cofferdam out, and then go from the other side. All along there has been this section of pipe across the deepest portion of the river that will be ballasted with concrete anchors on top of it.

One of the drivers of the directional drill method was the interest in doing one continuous piece of thermofused HDPE pipe. That would have been nice, but complicated matters. The ball and socket ductile iron pipe has been around for decades and is a very dependable water main crossing pipe. When asked, he stated the lifespan of the pipe to be 40-50 years. They would be kept wet; trying to dewater cofferdams of that size is a futile effort. They won't be embedded very deeply. The ledge is quite shallow. They excavate to a certain depth, let the turbidity settle, and divers go in and inspect it and then lay the pipe right in the bottom and then backfill. When asked, he stated the intake dam would be done after the crossing. The decision was made to do the water main crossing in 2018 and the intake project in 2019.

John Boisvert, Chief Engineer, Pennichuck Water, stated once financing is approved, they are all set to go come the beginning of the year; any time after February. They believe part of the permit conditions for then in river work to state the work is to be done mid-July to maybe mid-September.

Chairman Perry questioned how much higher the river will be in the section where the cofferdam isn't. Mr. Cedarholm responded the upper line on the map provided shows the typical water service elevations. The lower line is the lowest ever observed water service elevation. That occurred when work was being done on the dam in Lowell. They want to ensure the water main is actually at least 5' below that low observed so that if that were to occur in winter, the pipe is still 5' below ice. There is also the desire to ensure there is always enough water above the pipe that is exposed in the bottom of the river so that they are not obstructing navigation. Bare minimum they have 13-15' of water over the pipe. It was noted the project includes the replanting of many trees to replace those which must be removed.

4. NHACC Dues – Vote to approve yearly NHACC dues.

Chairman Perry stated the NHACC dues to be in an amount consistent with the past few years. He questioned the will of the Commission.

Commissioner Rosati spoke of her positive experience and of having learned a great deal at the conference.

MOTION BY COMMISSIONER TENHAVE TO APPROVE THE 2017 DUES TO THE NEW HAMPSHIRE ASSOCIATION OF CONSERVATION COMMISSIONS. SOURCE OF FUNDING IS THE TOWN BUDGET
MOTION SECONDED BY COMMISSIONER BOISVERT
MOTION CARRIED
7-0-0

OLD BUSINESS

1. Review of signage for the Sklar and Town waterfront properties

Commissioner Boisvert stated signage was approved by the Town Council. That process can begin. He stated his intent to look to get the committee together in the January timeframe.

Chairman Perry clarified the request to the Council was for permission to post on the outskirts of the Town property, which is where the boat ramp is located. Signage needs to be placed there as well as in some of the heavier used areas of the Commission's property. Vice Chairman Caron commented having done a lot of posting and seeing the activity in that area, he is uncertain there is a season; it is being used year-round. He stated there to be a likelihood for the need for posts, post hole digger, etc. Commissioner Boisvert stated there will be the need for police patrols. Commissioner Tenhave suggested the location of the signs be marked, a photo taken of each one to create a record of it so that if they go missing and are found in the back of a pick-up or something like that they have a record of where they came from. That way someone driving off with one of them can be charged with receiving stolen property, which is a misdemeanor as well as destruction of Town property.

Councilor Flood commented the undesirable activity has been ongoing for so long she is uncertain signage will have an impact. She agreed with the need for enforcement and fines. Commissioner Boisvert remarked Fish & Game, at the recent meeting, spoke of the need for imposing fines. Commissioner Tenhave encouraged posting no target shooting signs as well.

Chairman Perry suggested the Town border be walked to ensure a confidence level in terms of its location prior to posting. He questioned if the desire was to obtain the Fish & Game Signs (stay dry stay legal). Commissioner Tenhave questioned using "no motorized use permitted" signage. He commented in some places if you post the ones related to wetlands outside of a wetland people will not know. There will be the need for two kinds of signs. It was noted snowmobiles have a different classification as an off-road vehicle. The concept is snowmobiles ride on the snow not on the ground. He questioned whether the Commission wished to identify "no motorized wheeled" or "no motorized:" period. Commissioner Tenhave responded since there are no established trails, if you allow snowmobiles they will go everywhere, which means they could potentially damage saplings and other things we are trying to establish. He stated his opinion the Commission should go after what was originally said; "no motorized" until they can get a plan for the property and start getting people down there on a regular basis, so we know what is going on, and can do it in an appropriate manner.

Commissioner Tenhave questioned if someone would be going out to the site to take inventory, put together a list of materials, and have signs made. Vice Chairman Caron stated there to be two bundles of no-shooting signs available.

The Commission will meet at 9:00 a.m. on Saturday, November 18th to walk/sign the parcel, and verify/sign the edge of Town property. The Commission discussed utilizing a metal T-bar to drive the

signs in. Vice Chairman Caron stated he would bring with him the game cameras. Once the property is signed, enforcement can occur.

2. Review of Chapter 111 commitments

Commissioner Tenhave remarked he committed the Commission to putting together a project plan for what will be required to overhaul Chapter 111, and have that done in the 1st quarter of next year. He stated a willingness to put together the beginnings of that for the next meeting, e.g. general thoughts as to what may need to be included in the project. It can be refined from there. The input could be provided to the Town Manager Eileen Cabanel and Timothy Thompson, Director, Community Development Department as he is the liaison for the Commission. At some point it will be taken to the Town Council.

The Commission could specify what it believes it could do as a Commission, what staff support would be needed, and where there are approval processes required or where the Commission believes it can obtain input from so that it does not go off in a direction and find out the mark was missed. Eventually Chapter 111 will have to go through the review process; numerous readings, public hearing, and approval by the Town Council. Chairman Perry suggested it would be a great opportunity for input from sub-committee members.

Commissioner Tenhave stated he would provide the Commission with information by the weekend preceding the next meeting so that Commissioners would have ample time to review it and be prepared to provide feedback.

Vice Chairman Caron commented Commissioner Tenhave mentioned a bit about how he was thinking abstract having Chapter 111 cover certain properties and maybe grouping properties together in terms of criteria. Commissioner Tenhave stated his early thinking is there will be a set of things that the Commission will want on all properties (short list) and after that there will be groupings (hopefully kept to 3). There are 40-50 parcels. Those that are small and have minimal conservation value may not be included. He commented there are some; such as Grater Woods, which consist of numerous parcels with different sets of rules. Researching deeds will be part of the process.

Commissioner Tenhave commented it will be a bit of work, but if done well, it will be a good thing. Because the Town Council can change ordinances by following a set process, if the Commission gets it wrong, in two months it could be corrected.

Chairman Caron commented there will be discussion of parcels that are under the management of the Commission but not owned by the Commission. There will be challenges in making this work.

Chairman Perry commented Chapter 111 will also cover fines that would be imposed on individuals not following the established rules on Commission properties. State law limits the fine to up to \$1,000.

NEW BUSINESS

1. Review of 2018 meeting schedule

The consensus of the Commission was to amend the calendar by removing the meeting date of July 2, 2018.

2. Discuss proposed 2018 Budget Items

- Signs
- Map/Pamphlet Printing
- Other Items

Chairman Perry commented there are some budgetary items that are paid from a line item within the Town's budget. He questioned the will of the Commission regarding which budgetary items should be identified within the Town's budget.

Commissioner Tenhave stated he views dues, trainings, etc. as administrative items, and the types of expenses that should be covered through the budget. Things the Commission does that have a direct impact to the properties should be handled by the Conservation Fund.

A few scenarios were tossed about, and the discussion suggested paying for postage is administrative, the cost of printing maps is administrative. Knowing what the maps would have cost, and assuming they will have to be purchased each year, an amount could be included in the budget.

OTHER BUSINESS

- Sub Committee Updates

Horse Hill Nature Preserve (HHNP)

Commissioner Glenn stated there to be about 5 bridges needing repair. A list of needed supplies will be submitted to the Commission.

The Sub-committee questioned the turnaround time when re-ordering maps. Chairman Perry stated it to be a quick process.

There was discussion of the possibility of utilizing a separate box for users to return maps. It was noted there is a typed sign, on the kiosk, at Wildcat Falls requesting users return maps. Commissioner Glenn stated the desire to put such signage up at the HHNP.

Commissioner Glenn reiterated, maintenance was the big issue discussed at the recent HHNP Sub-Committee meeting. The question was asked whether the PWD could help in removal of the brush from the inside of the Spaulding foundation. Chairman Perry stated he would be surprised if the department would commit a crew to doing that work. They may be willing to pick up the brush if it is hauled to a pile somewhere.

Wildcat Falls

Commissioner Rosati stated she has not heard anything from Rivet Funeral Home regarding the granite memorial bench.

Maps were placed at the kiosk, and an email sent to the sub-committee looking to see who wished to obtain copies.

Regarding the placement of the picnic bench by the detention pond, flags have not yet been placed to identify the area where gravel is to be dumped, which is why the Commission has not received any request.

Chairman Perry suggested attempting to get the delivery of stone for the riprap and picnic table projects all at the same time.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. October 2, 2017

The following amendments were offered:

- Page 3, Line 6; replace “hay” with “straw”
- Page 5, Line 37; “sentiment” with “sediment”
- Page 7, Lines 21-23; delete “ball fields on”
- Page 7, Line 35; replace “Boisvert” with “Rosati”
- Page 8, Line 26; replace “an” with “and”

**MOTION BY VICE CHAIRMAN CARON TO ACCEPT AS AMENDED
MOTION SECONDED BY COMMISSIONER ROSATI
MOTION CARRIED**

6-0-1

Councilor Flood Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Vice Chairman Caron thanked all the volunteers that cleaned up the trails. After the storm, there was a lot of debris. A good many people stepped up, went out, and did a lot of work. All the trails are pretty much clear.

Commissioner Tenhave asked if there was anything notable about the conference this year. Commissioner Boisvert remarked both DES and Fish & Game commented on being shorthanded.

Commissioner Tenhave noted he and Wendy, Wetherbee Creative, have been discussing the Commission’s website. She has a list of some things to do to improve the website. She will provide a video on how to update the gallery.

Commissioner Rosati commented when reading the previous meeting minutes, she noted she was supposed to have forwarded the Press Release to Sharon Haynes, Secretary, Community Development Department, with a request to have it published. She will address that.

Commissioner Rosati reiterated she learned a great deal by attending the NHACC conference.

ADJOURNMENT

**MOTION BY VICE CHAIRMAN CARON TO ADJOURN
MOTION SECONDED BY COMMISSIONER TENHAVE
MOTION CARRIED**

7-0-0

The November 6, 2017 meeting of the Merrimack Conservation Commission was adjourned at 8:52 p.m.

Submitted by Dawn MacMillan